

ORDINANCE NO. 2001-21-CM
OF TIPPECANOE COUNTY, INDIANA

An Ordinance pertaining to and regulating the sale and distribution of food within Tippecanoe County, Indiana, providing for the issuance of permits therefore, and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of the County of Tippecanoe that this Ordinance is adopted as follows:

CHAPTER ONE: INTRODUCTION

1. TITLE. This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the Food Ordinance of Tippecanoe County, and may be cited as such and will be referred to herein as "this Ordinance".

2. PURPOSE. The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the preparation and distribution of food through food service operations within Tippecanoe County, and to otherwise promote public safety and welfare.

3. AUTHORITY. The Health Officer of Tippecanoe County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

4. ADOPTION OF REGULATIONS BY REFERENCE.

- A. The regulations of the Indiana State Department of Health as found in Title 410 IAC 7-20, are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein.
- B. Copies of the above referenced regulations are available and on file in the office of the Tippecanoe County Health Department and the Tippecanoe County Auditor.

CHAPTER TWO: DEFINITIONS

1. SUPPLEMENTAL DEFINITIONS. Unless the context specifically indicates otherwise, the definitions of the current food service requirements of the Indiana State Department of Health and their interpretations shall apply to the enforcement of this ordinance. In addition to or to otherwise supplement those definitions contained in the above referenced code sections which are incorporated herein by reference this ordinance shall include the following additional definitions:

- 1. BOARD shall mean the Tippecanoe County Board of Health of Tippecanoe County, Indiana.
- 2. COMMISSARY shall mean any food establishment, including, but not limited to, any place in which food, beverages, food or beverage ingredients, food service containers or supplies are kept, handled, prepared or stored for the purpose of directly supplying food or beverage vending machines or other food establishments.
- 3. CRITICAL VIOLATIONS shall mean those violations designated as being critical in 410 IAC 7-20, and as amended hereafter.

4. COMMUNICABLE DISEASE shall include those diseases which epidemiological evidence indicates can be transmitted through food preparation or service.
5. DEPARTMENT shall mean the Tippecanoe County Health Department of Tippecanoe County, Indiana, and its employees.
6. FOOD shall include, but not be limited to all articles used for food, drink, confectionery, or condiment whether simple, mixed, or compound. This term also includes all substances or ingredients used in the preparation of the aforementioned items.
7. FOOD ESTABLISHMENT shall mean and include all operations which prepare or market food as each establishment may be more particularly referenced or described herein.
8. FOOD ESTABLISHMENT PERSONNEL shall mean an individual working with food, food equipment or utensils, or food-contact surfaces.
9. FOOD OR BEVERAGE VENDING MACHINE shall mean any self-service device offered for public use which, upon insertion of paper money, coins or tokens, or by other similar means, dispenses unit servings of food or beverage products, either in bulk or in package.
10. FOOD PROCESSING ESTABLISHMENT shall mean any commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.
11. HEALTH OFFICER shall mean the Health Officer of the Tippecanoe County Health Department of Tippecanoe County, Indiana, and his or her authorized representatives.
12. IMMINENT HEALTH HAZARD shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on: (1) the number of potential injuries or illnesses; and (2) the nature, severity, and duration of the anticipated injury or illness.
13. MACHINE LOCATION shall include, but not be limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.
14. MOBILE FOOD MARKET ESTABLISHMENT shall mean any Food Establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered in pre-packaged form, fresh or frozen.
15. MOBILE FOOD SERVICE ESTABLISHMENT shall mean any Food Establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside the facility is stored, sold or offered in open form, fresh or frozen.
16. NON-CRITICAL VIOLATIONS shall mean violations designated as being non-critical in the 410 IAC 7-20, and as amended hereafter.
17. OPERATE and/or its derivatives shall mean one that operates a business or operates as a business.

18. PERMIT shall mean a certificate and/or a permit number of a size and style previously approved by the Health Officer.
19. PERMITTEE shall include the person who is the owner of or responsible for the operation of a food establishment which shall include his/her/its authorized representative and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.
20. NEW PERMITTEE shall be deemed to be any person, other than an immediate family member, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation, gift or other similar method, more than fifty percent (50%) of the control of a prior permittee's business.
21. PERSON shall include, but not be limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.
22. POTENTIALLY HAZARDOUS FOOD shall mean:
- (A) A food that is natural or synthetic and requires temperature control because it is in a form capable of supporting the following:
 - (1) the rapid and progressive growth of infectious or toxigenic micro-organisms;
 - (2) the growth and toxin production of *Clostridium botulinum*; or
 - (3) in raw shell eggs, the growth of *Salmonella enteritidis*.
 - (B) The term "potentially hazardous" includes but is not limited to the following:
 - (1) a food of animal origin that is raw or heat-treated;
 - (2) a food of plant origin that is heat-treated or consists of raw seed sprouts;
 - (3) cut melons; and
 - (4) garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under subsection (A).
 - (C) The term "potentially hazardous" does not include any of the following:
 - (1) An air-cooled hard-boiled egg with shell intact.
 - (2) A food with an a_w value of eighty-five hundredths (0.85) or less.
 - (3) A food with a pH level of four and six-tenths (4.6) or below when measured at seventy-five (75) degrees Fahrenheit.
 - (4) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.
 - (5) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic micro-organisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, such as food that:
 - (a) has an a_w and a pH that are above the levels specified under subdivisions (2) and (3); and
 - (b) may contain a preservative, other barrier to the growth of micro-organisms, or a combination of barriers that inhibit the growth of micro-organisms.
 - (6) A food that may contain an infectious or toxigenic micro-organism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of micro-organisms as specified under subsection (A).
23. RETAIL FOOD ESTABLISHMENT shall mean an operation that:

- (A) Stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as:
 - (1) a restaurant;
 - (2) a satellite or catered feeding location;
 - (3) a catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people;
 - (4) a market;
 - (5) a grocery store;
 - (6) a vending location;
 - (7) a conveyance used to transport people;
 - (8) an institution; or
 - (9) a food bank; and
 - (10) that relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (B) The term “retail food establishment” includes but is not limited to the following:
 - (1) An element of the operation, such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority.
 - (2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises, and regardless of whether there is a charge for the food.
- (C) The term “retail food establishment” does not include the following:
 - (1) An establishment that offers only prepackaged foods that are not potentially hazardous.
 - (2) A produce stand that only offers whole, uncut fresh fruits and vegetables.
 - (3) A food processing plant operated under IC 16-42-5.
 - (4) A private home where food is prepared by a member of an organization that is operating under IC 16-42-5-4.
 - (5) An area where food that is prepared as specified in subdivision (4) is sold or offered for human consumption.
 - (6) A bed and breakfast establishment as defined and regulated under IC 16-41-31 and 410 IAC 7-15.5.
 - (7) A private home that receives catered or home-delivered food.
 - (8) A private home which provides childcare and is not subject to IC 12-13-5.
 - (9) A private home.

- 24. RETAIL FOOD MARKET ESTABLISHMENT shall mean any Food Establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any Food Establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, transported, sold or offered with or without charge. Provided, however, that the provisions of this Ordinance shall not include meat or poultry slaughterhouses.
- 25. RETAIL FOOD SERVICE ESTABLISHMENT shall mean any Food Establishment, including, but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering facility, industrial feeding establishment, private, public, or non-profit organization or institution

routinely serving food, and any other eating or drinking establishment, where food or drink products are prepared, served or provided for human consumption with or without charge. The term does not include private homes where food is prepared or served for individual family consumption.

26. SAFE HOLDING TEMPERATURES as applied to potentially hazardous foods shall mean food temperatures at 41 degrees Fahrenheit or below, and 140 degrees Fahrenheit or above, and frozen foods at 0 degrees Fahrenheit or below, provided, however, a tolerance of 5 degrees Fahrenheit shall be permitted on frozen foods only.
27. TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean any Food Establishment in any enclosure, stall or other facility, whether fixed or mobile, operating at one site or location for a period of time not in excess of fourteen (14) consecutive days, in conjunction with a single event or celebration, where food in open form intended for human consumption on or off the premises is offered with or without charge.
28. UTENSIL shall mean any implement used in the storage, preparation, service, consumption, display, transportation, or cleaning of food or drink products.
29. VENDING OPERATOR shall include, but not be limited to, any person who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food or beverage vending machines which dispense potentially hazardous food or beverage products.

CHAPTER THREE: PERMITS

1. PERMIT REQUIREMENTS: It shall be unlawful for any person to sell or give away any food or to operate a Food Establishment or to act, whether actually or ostensibly, as a Food establishment operator within Tippecanoe County, Indiana, who does not possess a valid permit for each such operation from the Health Officer, unless otherwise exempted from the provisions of this Ordinance.
2. POSTING: All permits shall be posted in a conspicuous place in view of the public in each Food Establishment. With respect to Mobile Food Establishments, the name, address and telephone number of the permittee shall be conspicuously displayed on each licensed mobile unit not less than two (2) inches in height. In addition, a copy of the permit must be located in each mobile unit at all times for purposes of identification.
3. SEPARATE PERMITS: A separate permit shall be required for each Food Establishment and/or vending operator (regardless of whether or not they are contained in the same building) where the person owning the building and/or operating the Food Establishment are not identical. This requirement as to separate permits, however, shall not apply to those arrangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the Food Establishment permit is the same person as the holder of the Alcoholic Beverage Commission (ABC) permit.
4. APPLICATION (Food Establishment, non-vending): The application for a Food Establishment permit shall be made to the Health Officer on forms provided by the Health Officer. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, the address of the establishment, and the number of food establishment personnel employed at the establishment (which shall include the permittee's

manager, or other supervisory personnel). Said application shall include the signature of the permittee or his/her authorized representative.

5. APPLICATION (Vending Machine): The application for a Food or Beverage Vending Machine Operator Permit shall be made to the Health Officer on forms provided by the Health Officer. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, the address of the establishment, and the number of vending machines intended to be operated. In addition, said application shall specify the location of any commissary or commissaries, the number and type of food or beverage vending machines, the locations maintained by the permittee where supplies are kept or where vending machines are repaired or renovated, and the type and form of the food or beverages to be dispensed from the vending machines. Said application shall include the signature of the permittee or his/her authorized representative.

6. PERMIT ISSUANCE: A permit shall be issued subsequent to application and upon a determination by the Health Officer that the permittee has complied with all of the applicable provisions of this Ordinance, tendered the appropriate fee as hereinafter specified and after approval by any other applicable regulatory agency or department, including but not limited to the Building Commissioner, City Engineer, and Fire Department.

7. TERM:

- A. The permit for a Retail Food Service Establishment, Retail Food Market Establishment, Mobile Food Service Establishment, Mobile Food Market Establishment, Vending Operator, Commissary, or Food Processing Establishment shall be for a term of one (1) year beginning upon the date of issue.
 - 1) Said permits shall be renewed annually on or before the last day of the anniversary month which is one year after issuance of the permit. However, if the day of expiration of the permit falls on a weekend or government-recognized holiday, the permittee will be given until the following business day to renew the permit without late fees being assessed.
- B. The permit for a Temporary Food Service Establishment shall be for a term not to exceed fourteen (14) consecutive days.

8. PERMIT NOT TRANSFERABLE: No permit issued to any permittee under this Ordinance shall be transferable between locations or between operators.

CHAPTER FOUR: CONSTRUCTION, RENOVATION, AND ALTERATION OF FOOD ESTABLISHMENTS AND VENDING MACHINES

1. CONSTRUCTION: All Food Establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of 410 IAC 7-20, as amended, as well as with this Ordinance and all applicable Building, Zoning and Fire codes.

2. PLANS: No construction, renovation or alteration shall begin without the construction, renovation or alteration plans being first submitted to and approved by the Health Officer.

3. EQUIPMENT: All equipment installed in a Food Establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products, shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

4. **PROHIBITED EQUIPMENT:** The Health Officer may prohibit the further use of any equipment that fails to meet the requirements of Chapter 4, Paragraph 3.

5. **COMPLIANCE:** All Food Establishments must fully comply at all times with all local and state Building, Zoning and Fire codes. Compliance with the Building, Zoning and Fire codes is a pre-condition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully comply with any applicable Building, Zoning, and Fire code shall be the basis for the suspension, immediate closure or revocation of any permit issued hereunder.

6. **GREASE TRAP:** Unless exempted by that agency or authority having jurisdiction over sewer lines, all Food Establishments shall be required to install a grease interceptor in the waste line leading from sinks, drains and other fixtures or equipment where grease may be introduced into the drainage or sewage systems in quantities that can affect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements of the Building Department and shall be located in such areas as are easily accessible for cleaning.

CHAPTER FIVE: APPLICATION AND PERMIT FEES

1. **FEES:** Prior to the issuance of any permit, each permittee shall first tender to the Tippecanoe County Health Department for each such operation in accordance with the classification as established in the following schedule of fees.

2. **APPLICATION FEES:**

- A. Each new Food Establishment or any existing Food Establishment desiring to remodel or build any additions requiring a building or other permit which includes renovations to the food preparation area shall be required to pay an initial fee for the review of plans and specifications and for the initial inspection of the Food Establishment. This fee is in addition to the permit fee. In the instance where there are multiple Food Establishments or areas within one building which will require staged final inspections at separate times, an application fee as set out below will be required for each final inspection. The application fee shall be based upon the square footage of the building floor area or expected number of employees as provided as follows:

RETAIL FOOD MARKET ESTABLISHMENT

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|---------------------------------|----------|
| 1) Under 3,000 square feet | \$ 50.00 |
| 2) 3,001 to 30,000 square feet | \$100.00 |
| 3) 30,001 to 40,000 square feet | \$150.00 |
| 4) 40,001 to 60,000 square feet | \$200.00 |
| 5) 60,001 square feet and over | \$300.00 |

RETAIL FOOD SERVICE ESTABLISHMENT

- | | |
|--------------------------------|----------|
| 1) 1 through 5 employees (sic) | \$ 50.00 |
| 2) 6 through 9 employees | \$ 75.00 |
| 3) 10 through 40 employees | \$150.00 |
| 4) 41 and more employees | \$200.00 |

ADDITIONAL INSPECTIONS OR REVIEW

In those circumstances where building or remodeling of a Food Establishment results in more than three inspections of the Food Establishment's premises or continuing review of or consultations regarding the plans therefor by the Health Officer, and which inspections or review or consultations

are necessitated due to failure to have the plans completed or finalized at the time of application for a permit or the failure to implement construction or remodeling consistent with the original plans, or any other cause within the control of the Food Establishment which results in continuing and extra review of or consultation regarding the plans for the Food Establishment, there shall be an additional fee of \$100.00 payable prior to opening the Food Establishment.

3. PERMIT FEES FOR RETAIL FOOD SERVICE ESTABLISHMENTS:

A.	1 through 5 employees	\$100.00
B.	6 through 9 employees	\$150.00
C.	10 through 40 employees	\$250.00
D.	41 employees and over	\$350.00

4. PERMIT FEES FOR RETAIL FOOD MARKET ESTABLISHMENTS: (square footage of floor area involved):

A.	Under 3,000 square feet	\$100.00
B.	3,001 to 30,000 square	\$150.00
C.	30,001 to 40,000 square feet	\$250.00
D.	40,001 to 60,000 square feet	\$350.00
E.	60,001 square feet and over	\$550.00

5. PERMIT FEES FOR MOBILE FOOD SERVICE AND MOBILE FOOD MARKET ESTABLISHMENTS:

A.	Per unit	\$ 75.00
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6. PERMIT FEES FOR VENDING MACHINE OPERATORS:

A.	1 to 20 Food or Beverage Vending Machines	\$ 75.00
B.	21 to 50 Machines	\$125.00
C.	51 to 100 Machines	\$150.00
D.	101 to 200 Machines	\$225.00
E.	201 to 300 Machines	\$300.00
F.	301 or more Machines	\$400.00

7. PERMIT FEES FOR TEMPORARY FOOD SERVICE AND TEMPORARY FOOD MARKET ESTABLISHMENTS:

A.	For every 72 consecutive hours of operation	\$20.00
B.	Each additional day	\$ 5.00

8. NO PERMIT: Should any permittee fail to obtain the permit prior to the opening of the Food Establishment for business, or should any permittee fail to renew his/her permit on or before the anniversary date of said permit, then said annual fee shall be 125% of the annual fee set forth above for that particular Food Establishment. Nothing in this section shall prevent the Health Officer from exercising any other of his/her rights and/or duties regarding suspension, closure, or revocation of the permit with regard to any Food Establishment.

9. EXEMPTIONS:

- A. The permit fee provisions of this Ordinance shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey or cider; PROVIDED THAT, nothing herein shall be construed to limit the Health Officer's authority to inspect any such stands in order to insure public health.

- B. Food Establishments or vending operators which comply with the terms and provisions of I.C.16-42-5-4 (as may be recodified and remaining applicable to exempt organizations), shall be exempt from the provisions of this Ordinance unless they waive said exemption. Exempt organizations such as sports leagues, church-sponsored soup kitchens, churches, and temporary senior citizen feeding sites are exempt from the permit provisions of this Ordinance.
- C. Food Establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nuts meats, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this Ordinance.
- D. Vending machines which dispense non-potentially hazardous food or drink products in prepackaged or pre-bottled form, shall be exempt from the provisions of this Ordinance.

10. **MINIMUM STANDARDS INSUFFICIENT:** The provisions of this ordinance are intended to provide standards for licensing operation for and inspection of Food Establishments. Nothing contained in this ordinance shall be construed to require the Health Officer to issue or prevent the revocation of a permit if, after investigation by the Health Officer, he/she concludes that issuance or continuation of a permit results in unacceptable health risks resulting from the size or configuration of the Food Establishment, change of use or type of food being served compared with existing facilities for the Food Establishment, and the likelihood that efforts to ameliorate increased health risks resulting therefrom will be unsuccessful. Any decision by the Health Officer to refuse to issue a permit or to revoke a permit for reasons found in the Section shall entitle an aggrieved Food Establishment to a hearing as provided in Chapter Nine, Section 4, and a right to appeal as provided herein or by law.

CHAPTER SIX: MINIMUM SANITARY REQUIREMENTS FOR FOOD ESTABLISHMENTS, VENDING OPERATORS, FOOD AND BEVERAGE VENDING MACHINES AND BED & BREAKFAST EATABLISHMENTS

1. **SANITARY REQUIREMENTS:** All Food Establishments, except Vending Operators, and Food and Beverage Vending Machines shall comply with the minimum sanitary requirements specified by the Indiana State Department of Health as provided in 410 IAC 7-20, and as amended hereafter.

2. **ISDH RULES:** The Board hereby incorporates by reference all rules and regulations established by the Indiana State Department of Health regarding the operation of Bed and Breakfast Establishments as set forth in the Indiana Administrative Code and all such establishments shall abide by said rules and regulations as they now exist and as are amended hereafter.

CHAPTER SEVEN: EDUCATION

1. **FOOD SAFETY:** Every person who is employed, or is about to be employed in a Food Establishment, shall be familiar with the requirements of, 410 IAC 7-20, as amended. A copy of the 410 IAC 7-20, and as amended hereafter, shall be kept on the premises at all times. All food establishment personnel employed by a Food Establishment may be required to attend a food safety education program given by the Department for any of the following reasons:

- A. If the establishment is subjected to immediate closure by the Health Officer and the education program is deemed necessary by the Health Officer.
- B. If the Health Officer determines the necessity of a Food Safety Education program as a result of a hearing dealing with violations of this Ordinance.
- C. If upon inspection it is determined that remedial efforts have not been made to correct prior violations of this ordinance.

The Department shall charge a flat fee of two hundred dollars (\$200.00) to each Food Establishment for conducting the food handler education program required by this paragraph.

CHAPTER EIGHT: INSPECTIONS

1. **FREQUENCY OF INSPECTION:** Each food establishment for which a permit is required under the provisions of this Ordinance shall, and any other individual or entity which delivers or transfers food, may be inspected as frequently as deemed appropriate by the Health Officer or his/her authorized representative.

2. **AUTHORITY TO INSPECT AND COPY RECORDS:** The permittee shall, upon the request of the Health Officer, permit access to all areas of every such Food Establishment and shall permit inspection of, access to, and the copying of any and all records relating to food and beverage sanitation of any said Food Establishment.

CHAPTER NINE: VIOLATIONS

1. **PROCEDURE WHEN VIOLATIONS ARE NOTED:**

- A. If, during the inspection of any Food Establishment the Health Officer discovers the violation of any provision of Tippecanoe County Code or other conduct reasonably calculated to, he/she shall issue a written report listing such violations and the remedial action(s) to be taken. A copy of said report shall be delivered to the permittee by hand delivering the report to him/her onsite, or mailing the notice by Certified Mail to the address listed by the permittee as his/her/its mailing address on the permit application.
- B. A copy of the written report shall be filed in the records of the Department after appropriate review by supervisory personnel. Until such review and approval by supervisory personnel the report shall not be considered as a record of the Department.

2. **PERMIT SUSPENSION/CLOSURE:** The Health Officer may order the suspension of any permit issued for a Food Establishment which order shall include the prohibition of any further sale or serving of food or beverages for the following reasons:

- A. Interference with the Health Officer, or his/her authorized representatives, in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Officer in the performance of his/her duties.
- B. As a result of the willful and/or continuous violation of any provision of this Ordinance.

Provided, however, if the permit is for a Temporary Food Establishment, said suspension may be ordered immediately. Other than the internal review by the Health Department of said suspension no further hearing will be provided due to the temporary nature of the permit and the expectation it will automatically expire before any administrative appeal process can be implemented and concluded.

3. **OTHER PERMIT REVOCATION, SUSPENSION AND CLOSURE ORDERS**

- A. All revocation and suspension orders, other than those set forth in Section 2 above for Temporary Food Establishments, shall not be ordered by the Health Officer except after a hearing held pursuant to Section 4 below.
- B. Notwithstanding any other provisions of this Ordinance, whenever the Health Officer, or his/her authorized representatives find unsanitary or other conditions, involving the operation of any Food Establishment or Food or Beverage Vending Machine operation which, in his/her reasonable belief, constitutes an imminent health hazard, he/she shall, without notice or hearing, issue and serve a written order upon the permittee requiring the immediate closure of

its operations, shall cite the existence of said unsanitary condition(s) and shall specify the corrective action(s) to be taken.

- 1) Such order shall be effective immediately.
- 2) Upon written request to the Health Officer, the permittee shall be afforded a hearing as soon as reasonable considering the circumstances and as set forth in Section 4 below.
- 3) When the Health Officer determines that the necessary corrective action(s) have been taken, operation of the Food Establishment may be resumed.

4. **HEARING**

- A. All hearings required under this or any other section, except those set forth in Section 3 incidental to imminent health hazards above, shall be held with sufficient written notice to the permittee of time, place, and nature thereof to enable the permittee to appear and participate in the hearing. The notice of hearing shall be served upon the permittee by leaving or mailing by Certified Mail the notice to the address listed on the permit application as the permittee's mailing address or such other address as the permittee shall designate in writing to the Health Officer.
- B. At any hearing required under this Ordinance, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.
- C. Upon the conclusion of such hearing, the Health Officer shall enter a final order, subject to the right of appeal in accordance with Section 5 below.

5. **APPEAL**

- A. Any permittee aggrieved by any final order of the Health Officer shall be entitled to appeal that determination to a court having jurisdiction thereof.

CHAPTER TEN: ENFORCEMENT

1. **ENFORCEMENT:** It shall be the duty of the Health Officer to enforce the provisions of this Ordinance. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Officer or Board shall be considered to be a violation of this Ordinance.

2. **VIOLATIONS:** Whenever the Health Officer determines that any Food Establishment, Vending Operator, food establishment personnel or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Tippecanoe County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating said provisions of this Ordinance.

3. **PENALTY:** Any person, firm, or corporation who shall violate any provision of this Ordinance shall be subject to penalty as hereinafter prescribed in this Section. On being found to have violated the provisions of this Ordinance, the violator shall be punished for the first offense by a fine of One Hundred Dollars (\$100.00); for the second day of the offense by a fine of not more than Three Hundred Dollars (\$300.00) and for the third day and each subsequent day of the offense a fine of not more than Five Hundred Dollars (\$500.00). Each day after the expiration of the time limit for abating any violation of this Ordinance or completing other actions as ordered by the

Tippecanoe County Health Department or by the duly appointed Health Officer of the County, shall constitute a distinct and separate offense. In addition, all fines shall be payable in full within forty-five (45) days unless otherwise ordered by the Hearing Officer. Failure to pay fines by the due date will result in an additional ten percent (10%) late fee. No permit is to be issued or renewed, until all fines have been paid in full. Any fines and late fees may be collected in any manner provided herein or as provided by law for collection of debts, along with attorney fees incurred to collect said amounts owing and with costs of collection.

4. INJUNCTION: The Health Officer may bring an action for an injunction in the Circuit or any Superior Court of Tippecanoe County, Indiana, to restrain any person from violating the provisions of this Ordinance, to cause such violation(s) to be prevented, abated or removed, or to otherwise enforce this ordinance.

5. EXPENSE: Any person violating any of the provisions of this Ordinance shall be liable to the Tippecanoe County Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

6. CUMULATIVE: The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

CHAPTER 11: MISCELLANEOUS

1. REPEAL: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

2. SEVERABILITY: Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

3. PARTIAL INVALIDITY: If any term or provision of this Ordinance shall be found to be wholly or partially unenforceable then, notwithstanding same, the remainder of this Ordinance shall remain in full force and effect and such term or provision shall be deemed stricken or modified to the extent required to make the remainder of this Ordinance enforceable.

CHAPTER 12: EFFECTIVE DATE

1. DATE. Passed and adopted by the Tippecanoe County Board of Commissioners on the date hereafter stated.

THE BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

Ruth Shedd, President

John Knochel, Member

Attest:

Robert Plantenga, Auditor

K. D. Benson, Member

Dated: _____

Dated: _____

